

ARKANSAS SUPREME COURT

No. 06-21

NOT DESIGNATED FOR PUBLICATION

Opinion Delivered

May 11, 2006

CHARLES DENNIS YOUNG
Petitioner

PRO SE MOTION FOR RULE ON
CLERK [CIRCUIT COURT OF
PULASKI COUNTY, DR 2005-3501,
HON. ELLEN BRANTLEY, JUDGE]

v.

ANGELA BLACK
Respondent

MOTION DENIED

PER CURIAM

On August 1, 2005, an order of protection was entered in a civil matter in the Circuit Court of Pulaski County. Petitioner Charles Dennis Young, proceeding *pro se*, filed a timely notice of appeal from the order on August 15, 2005. On December 13, 2005, petitioner tendered the record on appeal to this court.

When the record was received, our clerk correctly declined to lodge it because it was not tendered here within ninety days of the date of the notice of appeal as required by Ark. R. App. P.–Civil 5(a).¹ The timely lodging of the record has been deemed a jurisdictional requirement to perfecting an appeal. *Seay v. Wildlife Farms, Inc.*, 342 Ark. 503, 29 S.W.3d 711 (2000). Now before us is petitioner’s *pro se* motion for rule on clerk seeking to lodge the record belatedly.²

¹The record was tendered 120 days after the notice of appeal was filed.

²Petitioner tendered the motion for rule on clerk on December 28, 2005, without the fee required to file it. On January 6, 2006, he sought leave to proceed *in forma pauperis*, seeking to have the filing fee waived. The motion was denied. *Young v. Black*, 06-21 (Ark. January 26, 2006) (*per curiam*). Petitioner was duly advised of the need to remit the fee. The matter was

As the sole ground for the request to lodge the record belatedly, petitioner asserts that it was the fault of the circuit clerk that the record was not tendered in a timely manner. This court has specifically held that it is not the responsibility of the circuit clerk or anyone other than the appellant to perfect an appeal. *Mosby v. Office of Professional Conduct*, 356 Ark. 500, 156 S.W.3d 253 (2004) (*per curiam*), *Davis v. Williamson*, 353 Ark. 225, 114 S.W.3d 216 (2003) (*per curiam*); *see also Sullivan v. State*, 301 Ark. 352, 784 S.W.2d 155 (1990) (*per curiam*). It was thus the petitioner's burden to tender the record here within the time allowed by Rule 5(a). The failure to timely tender the record without good cause is reason to dismiss an appeal. *Seay, supra*. The motion for rule on clerk is denied.

Motion denied.

later dismissed from our docket for failure to remit the fee. *Young v. Black*, 06-21 (Ark. February 7, 2006) (*per curiam*). Petitioner subsequently tendered the filing fee, and on February 22, 2006, filed a motion to reinstate the matter to the docket. The motion was granted, and the instant motion for rule on clerk was filed on April 20, 2006. *Young v. Black*, ___ Ark. ___, ___ S.W.3d ___ (April 20, 2006) (*per curiam*).